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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,942	11/19/2001	Antonio J. Colmenarez	US010574	9174

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EXAMINER
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MICHALSKI, JUSTIN I

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/988,942

Applicant(s)

COLMENAREZ ET AL.

Examiner

Justin Michalski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/19/04 & 2/24/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6, 7, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 recite the limitation "said corresponding adjustment" in line 2.

There is insufficient antecedent basis for this limitation in the claims.

Claims 13 and 14 recite the limitation "said corresponding adjustment" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohnuki et al. (Hereinafter "Ohnuki") (US Patent 4,574,633).

Regarding Claim 1, Ohnuki discloses a method for controlling an appliance (Figure 3), comprising: analyzing audio information associated with said appliance to identify at least one predefined audio characteristic (acoustic emission, Col 2, line 8);

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and automatically adjusting said appliance when said predefined audio characteristic is identified (Ohnuki discloses halting machine when level exceeds discrimination (i.e. predefined) level (Col 2, lines 30-37)).

Regarding Claim 8, Ohnuki discloses a method for controlling an appliance (Figure 3), comprising: establishing at least one appliance adjustment rule (level comparator 18), said appliance adjustment rule including at least one predefined audio characteristic (acoustic emission, Col 2, line 8) associated with said appliance and an action item (Ohnuki discloses halting machine when level exceeds discrimination level (Col 2, lines 30-37) to be performed to automatically adjust said appliance when said rule is satisfied; analyzing audio information associated with said appliance to identify said at least one predefined audio characteristic; and performing said action item if said appliance adjustment rule is satisfied (Col. 2, lines 30-37).

Regarding Claims 2 and 9, Ohnuki further discloses the predefined audio characteristic indicates that the appliance should be turned off. (Col 2, lines 35-37).

Regarding Claims 3 and 10, Ohnuki further discloses the predefined audio characteristic indicates that the appliance should be adjusted (i.e. turned off, Col 2, lines 35-37).

Regarding Claims 4 and 11, Ohnuki further discloses the predefined audio characteristic is a static audio characteristic (Figures 1A, 1B, and 1C show acoustic emission constantly present, i.e. static).

Regarding Claims 5 and 12, Ohnuki further discloses predefined audio characteristic is a time varying audio characteristic (Figures 1A, 1B and 1C show acoustic emission volume varying with time).

Regarding Claims 6 and 13, Ohnuki further discloses audio characteristic and corresponding adjustment are obtained during a learning phase (data setting means 26 and memory 24, Col. 4, lines 47-52).

Regarding Claims 7 and 14, Ohnuki discloses predefined audio characteristic and said corresponding adjustment are a default setting (i.e. predetermined value, Col 1, lines 42-43).

Regarding Claim 15, Ohnuki discloses adjustment rule includes one or more settings for said appliance that should be established when said appliance adjustment rule is satisfied (Ohnuki discloses halting machine (i.e. setting) when level exceeds discrimination level (Col 2, lines 30-37)).

Regarding Claim 16, Ohnuki discloses a system for controlling an appliance (Figure 3), comprising: a memory for storing computer readable code (memory 24); and a processor operatively coupled to said memory (it is inherent that the device will contain a processor for control of the device), said processor configured to: analyze audio information associated with said appliance to identify at least one predefined audio characteristic (acoustic emission, Col 2, line 8); and automatically adjust said appliance when said predefined audio characteristic is identified (Ohnuki discloses halting machine when level exceeds discrimination (i.e. predefined) level (Col 2, lines 30-37)).

Regarding Claim 17, Ohnuki discloses a system for controlling an appliance (Figure 3), comprising: a memory for storing computer readable code (memory 24); and a processor operatively coupled to said memory (it is inherent that the device will contain a processor for control of the device), said processor configured to: establish at least one appliance adjustment rule (level comparator 18), said appliance adjustment rule including at least one predefined audio characteristic (acoustic emission, Col 2, line 8) associated with said appliance and an action item to be performed to automatically adjust said appliance when said rule is satisfied (Ohnuki discloses halting machine when level exceeds discrimination level, Col 2, lines 30-37); analyze audio information associated with said appliance to identify said at least one predefined audio characteristic (acoustic emission, Col 2, line 8); and perform said action item if said appliance adjustment rule is satisfied (Ohnuki discloses halting machine when level exceeds discrimination level, Col 2, lines 30-37).

Regarding Claim 18, Ohnuki discloses an article of manufacture for controlling an appliance (Figure 3), comprising: a computer readable medium having computer readable code means embodied thereon (memory 24), said computer readable program code means comprising: a step to analyze audio information associated with said appliance to identify at least one predefined audio characteristic (acoustic emission, Col 2, line 8); and a step to automatically adjust said appliance when said predefined audio characteristic is identified (Ohnuki discloses halting machine when level exceeds discrimination (i.e. predefined) level (Col 2, lines 30-37)).

Regarding Claim 19, Ohnuki discloses an article of manufacture (Figure 3) for controlling an appliance, comprising: a computer readable medium having computer readable code means embodied thereon (memory 34), said computer readable program code means comprising: a step to establish at least one appliance adjustment rule, said appliance adjustment rule including at least one predefined audio characteristic associated with said appliance and an action item to be performed to automatically adjust said appliance when said rule is satisfied (Ohnuki discloses halting machine (i.e. adjustment) when level (i.e. characteristic) exceeds discrimination level (i.e. rule) (Col 2, lines 30-37); a step to analyze audio information associated with said appliance to identify said at least one predefined audio characteristic (level comparator 18); and a step to perform said action item if said appliance adjustment rule is satisfied (Ohnuki discloses halting machine (Col 2, lines 30-37).

Regarding Claim 20, Ohnuki discloses a system for controlling an appliance (Figure 3), comprising: means for analyzing audio information associated with said appliance to identify at least one predefined audio characteristic (acoustic emission, Col 2, line 8); and means for automatically adjusting said appliance when said predefined audio characteristic is identified (Ohnuki discloses halting machine (Col 2, lines 30-37).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (703)305-5598. The examiner can normally be reached on 8 Hours, 5 day/week.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JIM

  
XU MEI  
PRIMARY EXAMINER